

AMENDED IN ASSEMBLY JUNE 21, 2012

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AMENDED IN SENATE APRIL 25, 2011

**SENATE BILL**

**No. 623**

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**Introduced by Senator Kehoe**

February 18, 2011

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~~An act to add Chapter 8 (commencing with Section 117140) to Part 12 of Division 104 of the Health and Safety Code, relating to public health. An act to add and repeal Sections 128196 and 128197 of the Health and Safety Code, relating to public health: abortions.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 623, as amended, Kehoe. ~~Vessels: marine antifouling paint. Public health: health workforce projects: abortions.~~

*Under existing law, the Office of Statewide Health Planning and Development approves, establishes minimum guidelines for, and performs onsite visitations for specified types of evaluation of health workforce projects. Existing law also requires the office to collect and make public the data an approved project generates. Existing law prohibits the office from approving a project for beyond a specified period unless a specified determination is made.*

*This bill would require the office to extend the duration of Health Workforce Pilot Project No. 171 through January 1, 2014, to, among other specified reasons, provide the sponsors of the project an opportunity to achieve publication of the data collected during the project in a peer-reviewed journal.*

~~Under existing law, the Department of Boating and Waterways regulates the operation and equipment of vessels. The Director of~~

~~Boating and Waterways administers the department. Existing law regulates various substances in products, like lead, copper, and mercury, that can lead to public health issues when introduced into the environment.~~

~~This bill would require the Department of Pesticide Regulation, by January 1, 2014, to determine the maximum allowable leach rate for low-leach rate antifouling paints. The bill would prohibit, on and after January 1, 2015, a manufacturer, wholesaler, retailer, or distributor from selling or offering for sale in California a new recreational vessel, as defined, containing antifouling paint that contains copper. The bill also would prohibit, on and after January 1, 2015, the use or application of antifouling paint that contains copper on recreational vessels, except as provided. The bill would require the State Water Resources Control board, by January 1, 2019, and biennially thereafter, to determine whether the use of low-leach rate copper-containing antifouling paints could result in the attainment of water quality objectives in marinas and harbors for dissolved copper. The bill would, on or after January 1, 2019, prohibit the use or application of antifouling paint on recreational vessels one year after a determination by the State Water Resources Control Board that the trend line of measured water quality data does not point toward attainment of the dissolved copper water quality objectives in marinas and harbors.~~

~~This bill would require an owner or a master of a transient vessel, as defined, to submit to the manufacturer, wholesaler, retailer, distributor, boatyard, or other vessel repair facility, and to the marina or similar mooring facility at the time of service or the onset of temporary residency a transient vessel affidavit certifying under the penalty of perjury that the vessel qualifies as a transient vessel. A person who knowingly submits a false affidavit is liable for an unspecified penalty. Because a person who submits a false affidavit has committed the crime of perjury, this bill would create a new crime, thereby imposing a state-mandated local program. The bill would require a transient vessel that no longer qualifies as a transient vessel to be hauled and to remove all antifouling paints. A person who fails to remove the antifouling paints is liable for an unspecified amount.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~yes~~-no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 128196 is added to the Health and Safety  
2     Code, to read:  
3     128196. The Legislature finds and declares all of the following:  
4     (a) The Access through Primary Care Project, known as Health  
5     Workforce Pilot Project (HWPP) No. 171, was approved in 2007  
6     to teach new skills to nurse practitioners, certified nurse-midwives,  
7     and physician assistants, and to evaluate the safety and efficacy  
8     of allowing nurse practitioners, certified nurse-midwives, and  
9     physician assistants to use these new skills to perform first trimester  
10    aspiration abortions.  
11    (b) The study investigators from the University of California  
12    find, from the data submitted to the office that trainees of the  
13    project have achieved competency and safely perform first trimester  
14    aspiration abortions using the new skills acquired in HWPP No.  
15    171. The study investigators intend to undergo additional peer  
16    review of the data by submitting the results for publication in a  
17    nationally recognized, peer-reviewed journal.  
18    (c) It is necessary to extend HWPP No. 171 to maintain the  
19    competencies of clinicians trained to date and to authorize  
20    continued training of new clinicians while the larger peer review  
21    process is conducted, and because HWPP No. 171 is likely to  
22    increase the availability of safe, early abortion care that is limited  
23    in many areas of California.  
24    (d) This section shall remain in effect only until January 1, 2014,  
25    and as of that date is repealed, unless a later enacted statute, that  
26    is enacted before January 1, 2014, deletes or extends that date.  
27    SEC. 2. Section 128197 is added to the Health and Safety Code,  
28    to read:  
29    128197. (a) Notwithstanding Section 128180, the office shall  
30    extend the duration of the health workforce project regarding  
31    clinicians known as Health Workforce Pilot Project No. 171 until  
32    January 1, 2014, in order to provide the sponsors an opportunity  
33    to achieve publication of the data in a peer-reviewed journal, to  
34    maintain the competence of the clinicians trained during the course  
35    of the project, and to authorize training of additional clinicians

1 *in first trimester aspiration technique, as outlined in the project*  
2 *application, as amended. The project shall continue to satisfy the*  
3 *requirements of the office.*

4 (b) *This section shall remain in effect only until January 1, 2014,*  
5 *and as of that date is repealed, unless a later enacted statute, that*  
6 *is enacted before January 1, 2014, deletes or extends that date.*

7 SECTION 1. ~~The Legislature finds and declares all of the~~  
8 ~~following:~~

9 (a) ~~Marine antifouling paints are used on vessel hulls to prevent~~  
10 ~~the growth of aquatic organisms, such as barnacles and algae. Most~~  
11 ~~antifouling paints use copper to prevent the growth of aquatic~~  
12 ~~organisms. Copper-containing marine antifouling paints are a~~  
13 ~~source of copper releases in marinas within California estuaries~~  
14 ~~and along shorelines.~~

15 (b) ~~Copper is toxic to many aquatic organisms and plants. Its~~  
16 ~~concentration in water and sediments can increase to the point of~~  
17 ~~impacting the food web in the marine environment by eliminating~~  
18 ~~certain species. Copper is one of the metals listed in the federal~~  
19 ~~Clean Water Act (33 U.S.C. Sec. 1251 et seq.) that the state is~~  
20 ~~required to regulate. Numerous bays and harbors throughout~~  
21 ~~California have water quality impairments due to copper, as~~  
22 ~~referenced by the California 2008–2010 303(d) list of impaired~~  
23 ~~water bodies. As such, measures must be taken to reduce impacts~~  
24 ~~on aquatic environments by reducing copper loads in these areas.~~

25 (c) ~~Best management practices relative to in-water hull cleaning~~  
26 ~~of recreational vessels can help to minimize biocide input and~~  
27 ~~invasive species transport in state waters.~~

28 (d) ~~Boating is an important part of the economic and social~~  
29 ~~fabric of California. California has approximately 800,000~~  
30 ~~recreational boats and more than three million people who~~  
31 ~~participate in recreational boating annually. These boaters~~  
32 ~~contribute \$1.2 billion to the state's Gross State Product and have~~  
33 ~~a direct impact on over 24,000 jobs with labor income of \$750~~  
34 ~~million. Any policy affecting boating must ensure that boating~~  
35 ~~continues to be a vigorous part of California life. Therefore, it is~~  
36 ~~the intent of the Legislature that any policy relating to the~~  
37 ~~application or use of paints on vessel hulls be structured in a~~  
38 ~~manner that protects these values.~~

39 (e) ~~Due to the inherent conflict between the need for an~~  
40 ~~antifouling paint that effectively controls the growth of aquatic~~

1 organisms on vessel hulls and the federal requirements under the  
2 federal Clean Water Act to protect aquatic environments from  
3 pollution, it is the intent of the Legislature to promote the use of  
4 nonbiocide paints in order to balance the needs of these conflicting  
5 interests.

6 SEC. 2. Chapter 8 (commencing with Section 117140) is added  
7 to Part 12 of Division 104 of the Health and Safety Code, to read:

8  
9 CHAPTER 8. MARINE FOULING PAINT

10  
11 117140. For the purposes of this chapter, the following  
12 definitions shall apply:

13 (a) “Antifouling paint” means paint for a vessel’s hull that is a  
14 type of pesticide containing registered active ingredients, biocides,  
15 or zinc compounds to prohibit the attachment and growth of aquatic  
16 life.

17 (b) “Low-leach rate copper antifouling paint” means a  
18 copper-containing antifouling paint that has a maximum leach rate  
19 to be established by January 1, 2014, by the Department of  
20 Pesticide Regulation.

21 (c) (1) “Recreational vessel” means a vessel that is either of  
22 the following:

23 (A) Manufactured or used primarily for pleasure.

24 (B) Leased, rented, or chartered to a person for the pleasure of  
25 that person.

26 (2) “Recreational vessel” does not include either of the  
27 following:

28 (A) A vessel that is subject to United States Coast Guard  
29 inspection and that is engaged in commercial use or carries paying  
30 passengers.

31 (B) A transient vessel.

32 (d) “Transient vessel” means a vessel, recreational or otherwise,  
33 that is not or will not be located in the territorial waters of this  
34 state in excess of six months in any rolling 12-month period, except  
35 if the vessel is undergoing repair, retrofit, or modification by a  
36 manufacturer, wholesaler, retailer, distributor, boatyard, or other  
37 vessel repair facility and under the exclusive control of those  
38 entities.

39 (e) “Transient vessel affidavit” means the affidavit tendered by  
40 a vessel owner or the vessel master that certifies in writing under

1 penalty of perjury to the manufacturer, wholesaler, retailer,  
2 distributor, boatyard, or other vessel repair facility, that the vessel  
3 will not be located in the territorial waters of this state in excess  
4 of six months in any rolling 12-month period, except if the vessel  
5 is undergoing repair, retrofit, or modification by a manufacturer,  
6 wholesaler, retailer, distributor, boatyard, or other vessel repair  
7 facility and under the exclusive control of those entities.

8 117141. A vessel owner or vessel master of a transient vessel  
9 shall submit a transient vessel affidavit to the manufacturer,  
10 wholesaler, retailer, distributor, boatyard, or other vessel repair  
11 facility and to the marina or similar mooring facility at the time  
12 of service or the onset of temporary residency.

13 117142. (a) If a transient vessel ceases to be a transient vessel,  
14 then within 90 days thereafter, the vessel shall be hauled and all  
15 antifouling paint shall be removed.

16 (b) A vessel owner that submits, or whose vessel master submits,  
17 a transient vessel affidavit knowing it to be false shall be liable  
18 for a penalty of (\$\_\_\_\_\_).

19 (c) A vessel owner that fails to remove antifouling paint within  
20 90 days after the vessel ceases to be a transient vessel shall be  
21 liable for a penalty of (\$\_\_\_\_\_), in addition to the requirement to  
22 remove the antifouling paint.

23 117143. By January 1, 2014, the Department of Pesticide  
24 Regulation shall determine the maximum allowable leach rate for  
25 low-leach rate copper antifouling paints.

26 117144. On and after January 1, 2015, a manufacturer,  
27 wholesaler, retailer, or distributor is prohibited from selling or  
28 offering for sale in California, a new recreational vessel upon  
29 which has been applied copper-containing antifouling paint that  
30 does not meet the definition of low-leach rate copper antifouling  
31 paint.

32 117145. On and after January 1, 2015, it shall be unlawful to  
33 apply to a recreational vessel antifouling paint containing copper  
34 that does not meet the definition of low-leach rate copper  
35 antifouling paint.

36 117146. (a) By January 1, 2019, and biennially thereafter, the  
37 State Water Resources Control Board shall determine, through the  
38 assessment of appropriate water quality data and modeling  
39 techniques, whether the use of low-leach rate copper-containing  
40 antifouling paints can result in the attainment of water quality

1 objectives in California marinas and harbors. Modeling shall  
2 demonstrate that the trend line of the measured water quality data  
3 points toward attainment of the dissolved copper water quality  
4 objectives and that the water quality objectives will be met within  
5 five years from the date of the assessment.

6 (b) ~~On or after January 1, 2019, if the State Water Resources~~  
7 ~~Control Board does not demonstrate that the trend line of the~~  
8 ~~measured water quality data points toward attainment of the~~  
9 ~~dissolved copper water quality objectives in California marinas~~  
10 ~~and harbors, then the use or application of antifouling paint on~~  
11 ~~recreational vessels shall be prohibited one year after the~~  
12 ~~determination.~~

13 ~~117147. No later than January 1, 2013, the Department of~~  
14 ~~Boating and Waterways shall convene an advisory committee to~~  
15 ~~review existing signage programs and other relevant sources of~~  
16 ~~information to develop a model signage program that lists prudent~~  
17 ~~guidelines for in-water hull cleaning of vessels. The advisory~~  
18 ~~committee shall include representatives from associations related~~  
19 ~~to California harbors and marinas, water quality, and recreational~~  
20 ~~boaters with input from the State Water Resources Control Board~~  
21 ~~and the Department of Pesticide Regulation. Signs may be used~~  
22 ~~at the discretion of marina operators and will encourage the use~~  
23 ~~of proper hull cleaning methods and warn about the dangers of~~  
24 ~~contaminating the water with leaching from antifouling paint.~~

25 ~~SEC. 3. No reimbursement is required by this act pursuant to~~  
26 ~~Section 6 of Article XIII B of the California Constitution because~~  
27 ~~the only costs that may be incurred by a local agency or school~~  
28 ~~district will be incurred because this act creates a new crime or~~  
29 ~~infraction, eliminates a crime or infraction, or changes the penalty~~  
30 ~~for a crime or infraction, within the meaning of Section 17556 of~~  
31 ~~the Government Code, or changes the definition of a crime within~~  
32 ~~the meaning of Section 6 of Article XIII B of the California~~  
33 ~~Constitution.~~